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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,189	01/18/2001	Motoharu Kasuya	2001-0035A	5986
513 7	2590 12/03/2001			
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800			EXAMINER	
			MAI, TRI M	
WASHINGTO	N, DC 20006-1021		ART UNIT	PAPER NUMBER
			3727	
			DATE MAILED: 12/03/2001	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Tri M. Mai 3727 The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Electrosize from many be available used the provisions of 37 CFR 1.136(a). In or event, however, may a reply be timely filed If the period for reply specified above is less than thirty (0) days, a reply within the statety reinforment of theiry (0) days, will be considered timely. If the period for reply specified above is less than thirty period vall again and the provisional translations are the cover sheet with the mailing date of this communication. If the period for reply is specified above, the maximum admittance prior vall vallage and vall large sets (0) MONTH's form handling date of this communication. If the period for reply is specified above, the maximum admittance and the period of the period of reply is specified above. The mailing date of this communication. If the period for reply is specified above is less than thirty (0) days, with the control of the communication. A proper to communication (s) filed on			Application No.	Applicant(s)			
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	Attachment(s)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152) 7) Information Disolocure Statement(s) (PTO-1449) Paper-No(s) 2.							

Art Unit: 3727

DETAILED ACTION

Election/Restrictions

1. Claims 7 and 8 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

Applicant argues that the product claims are not restrictable from the process claim. It is submitted that the container as claimed can be made by forming the curled portion after the adhesive is cured or by soften the adhesive by heating. It is noted that the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 227 USPO 964, 966 (Fed. Cir. 1985). See MPEP 2113.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Beran et al. (GB 3. 492,163). Beran teaches a container having a body of a fiber drum having a plural wound layers with adhesive between the layers (col. 2, lines 12-13), Beran teaches inwardly curled portion at one end as shown in Fig. 1.

Art Unit: 3727

With respect to the curled portion being formed prior to the curing of the adhesive, the method as set forth does not impart any structure over the cylindrical body of Beran.

Furthermore, it is noted that the body is formed prior to adhesive is cured (col. 2, lines 50-55). In other words, the curling is formed when the layers of adhesive is soften by the heat source.

Furthermore, as set forth above, the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beadle (1,031,615) in view of Wilcox (2,623,681). Beadle teaches a roll of paper having a plural would layers at portion 1 as shown in Fig. 4, and a paper material cover plate 4. Beadle meets all claimed limitations except for the adhesive between the wall layers and a bottom plate. Wilcox teaches that it is known in the art to provide attach layers of material (26,27) by adhesive. It would have been obvious to one of ordinary skill in the art to use adhesive to attach the layers in Beadle together to keep the two layers together.

Art Unit: 3727

Wilcox further teaches a paper bottom plate 48 fixedly joined to the curled portion 49 by inwardly curling the edge of the bottom together with the circumferential edge of the bottom plate as shown in Fig. 1. It would have been obvious to one of ordinary skill in the art to provide a bottom closure having a bottom plate in Beadle as taught by Wilcox to provide an alternative bottom.

As set forth above, the patentability of the product does not depend on its method of production. If the product in the product - by - process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

6. To the degree it is argued that the Wilcox does not teach the curled portions being formed prior to the curing of the adhesive, claims 9 and 10 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Beadle (1,031,615) in view of Wilcox (2,623,681), and further in view of Carpenter (2,641,827). Carpenter further teaches that it is known in the art to curl the ends before the adhesive is set (col. 3, lines 15-23). It would have been obvious to one of ordinary skill in the art to curl the ends before the adhesive is set in the combination of Beadle to facilitate the manufacturing of containers.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

Art Unit: 3727

Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

> Tri M. Mai Examiner Art Unit 3727

November 15, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier) 6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein Identifying indicia, if provided, should include the title of the invention inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1 136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, MUST be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings MUST be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a)

Failure to take corrective action within the set period will result in ABANDONMENT of the application.